

DOCKET FILE COPY ORIGINAL

RECEIVED

APR 13 1993

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of:

Simplification of the
Depreciation Prescription Process

)
)
)
)

CC Docket No. 92-296

RECEIVED

APR 13 1993

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

REPLY COMMENTS
OF THE
UNITED STATES TELEPHONE ASSOCIATION

Martin T. McCue
Vice President & General Counsel
900 19th St., NW Suite 800
Washington, DC 20006-2105
(202) 835-3114

April 13, 1993

No. of Copies rec'd
List A B C D E

110

TABLE OF CONTENTS

SUMMARY OF REPLY COMMENTS	i
I. MOST COMMENTERS SUPPORT SIMPLIFICATION OF THE INTERSTATE DEPRECIATION PROCESS AND REMOVAL OF UNNECESSARY REGULATORY RESTRICTIONS	1
II. FUNDAMENTAL CONCERNS IDENTIFIED IN THE COMMENTS OF CARRIERS AND OTHERS CONCUR WITH THE COMMENTS FILED BY USTA	3
III. NONE OF THE OBJECTIONS TO THE PRICE CAP CARRIER OPTION	

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

SUMMARY OF REPLY COMMENTS

The comments reflect a fundamental view that simplification of the interstate depreciation process is worthwhile and that unnecessary regulatory restrictions should be eliminated.

USTA believes the Price Cap Carrier option it endorsed in its comments remains the best option. Those who oppose it appear to have perceptions of that option that unnecessarily disqualify it as a constructive option. The USTA comments anticipated all concerns and those comments remain appropriate.

No objection to the Price Cap Carrier option presents an unsurmountable obstacle to its adoption. USTA addresses the major concerns in turn at pages 5-19:

- o The data supporting a carrier's depreciation rate filing still will be significant. The Commission would also have continuing access to other information on the carrier's depreciation methods and experience.
- o The Commission will retain its explicit authority to set interstate depreciation rates under §220(b).
- o The nature of the process will constrain earnings manipulation, and the Commission can target implementation to deal with any new or residual concern.

A study by Ernst and Young is attached to these reply comments that discusses the inherent value of accounting safeguards, and concludes, among other things, that constraints will preclude material manipulation by carriers.

- o The benefits of the Price Cap Carrier option include real cost savings, but also extend beyond that, to greater integration of regulatory policy and alignment with the marketplace.

- o Records will continue to be retained and regulators' opportunities for access to needed records will continue.

USTA also addresses the role of competition, finding it to be a factor promoting revision of the Commission's procedures.

USTA responds to comments that want depreciation to be translated dollar-for-dollar into new investment. There is not a cause-and-effect relationship between depreciation and investment. Depreciation allocates existing investment over its life. Good depreciation policy provides incentives for investment but cannot provide a guarantee of any investment level.

USTA addresses the two major concerns apparent in comments that would condition each of the range options. If either of these options is adopted, it should not

be limited to a few accounts, to small accounts or to static accounts, where simplification will not provide the full benefits available. Likewise, the ranges should be wide enough to accommodate any needed change in future years that will match the market.

Finally, USTA believes there is no consensus that justifies reassessment of the handling of salvage.

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

RECEIVED

APR 13 1993

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of:

Simplification of the
Depreciation Prescription Process

)
)
)
)

CC Docket No. 92-296

**REPLY COMMENTS
OF THE
UNITED STATES TELEPHONE ASSOCIATION**

The United States Telephone Association (USTA) respectfully submits these reply comments addressing issues raised in the various comments filed March 10, 1993 in this proceeding. Thirty-seven sets of comments are on file concerning the Commission's Notice of Proposed Rulemaking (NPRM), 8 FCC Rcd 146 (1992). USTA filed comments on March 10.

I. MOST COMMENTERS SUPPORT SIMPLIFICATION OF THE INTERSTATE DEPRECIATION PROCESS AND REMOVAL OF UNNECESSARY REGULATORY RESTRICTIONS.

The comments in this proceeding reflect a fundamental view that simplification of the interstate depreciation process is worthwhile and that, to the extent possible, unnecessary regulatory restrictions should be eliminated.¹ To be sure, the various

¹Comments of NARUC at 5 (cost containment a worthwhile goal; current FCC process is too complex and detailed); California at 1-2 (supports simplification, there is room to streamline); Idaho PUC at 2 (simplification is desirable); Missouri PSC at 1 (reducing regulatory cost would be admirable); Nebraska PSC at 1 (endorses NARUC); New Jersey BRC at 2 (supports reduction of burden and cost); N.Y.DPS at 2 (supports efforts to reduce cost and unnecessary burden); Oklahoma CC Public Utility Division (PUD) Staff at 3 (don't constrain existing state simplification procedures); Tennessee PSC Staff at 1 (supports simplification); Texas PUC at 1 (at least supports elimination of

parties who made statements to this effect carefully stated their concerns or conditions.²

Detailed reading of the comments makes clear that the Commission can achieve positive results within the context of this rulemaking, if it can recognize that many of the comments, even the negative comments, contain positive views that can help the Commission sculpt constructive depreciation changes. The Commission should focus on areas in which the comments recognize possibilities for better regulation, and use them to move forward promptly.

The New Jersey Board of Regulatory Commissioners hit the appropriate note in its comments when it stated:

"Simplification must be made in a manner that will adequately recognize a changing telecommunications environment while providing reasonable bounds for changing depreciation rates and taking into account local concerns."³

That single sentence expresses three key thoughts that also were reflected in the comments of USTA: the environment is changing, regulators have a role that should be compatible with and reconciled to this change, and the affected carriers need flexibility

unnecessary studies); Virginia SCC Staff at 1 (current process is too complex and can be simplified); Wisconsin PSC at 1 (supports efforts to simplify and reduce burdens); AT&T at 5, 8; GSA at 4 (simplification is both feasible and desirable).

²No commenter supported the third option, the Depreciation Schedule option. USTA also opposed this option, but didn't reject any other option. See USTA comments at 21. Because of the widespread opposition to the Depreciation Schedule option, USTA does not discuss it further here.

³Comments of N.J. BRC at 2.

to meet the unique demands of their changing markets. The Price Cap Carrier option endorsed by USTA in its comments does this.

II. FUNDAMENTAL CONCERNS IDENTIFIED IN THE COMMENTS OF CARRIERS AND OTHERS CONCUR WITH THE COMMENTS FILED BY USTA.

The comments of USTA provided extensive detail on how the Commission could implement the Price Cap Carrier option and each of the range options. Rather than dealing with the skeletal outline of the Price Cap Carrier option set out in the NPRM - an outline that appears to have led some state commissions or state commission staff to reject it on the mistaken assumption that there would be no data or other information available from which the Commission could make a prescription - USTA explained in some detail how the Price Cap Carrier option could be effectively implemented.

USTA outlined a Price Cap Carrier option where a carrier would file the major data elements used to calculate depreciation rates for all accounts, with a letter of explanation. The carrier would continue its use of generally accepted accounting principles (GAAP) and remaining life methods. The carriers could file no more often than every year, and no less often than every three years.

The Commission would review the material, issue a Public Notice (as it does today) and take comment (as it does today.) It could schedule a three-way meeting. The Commission also would be able to consider other data on file with it in its review. Once it completed its review, it would make a prescription, relying on the submissions.

The fully subject carriers support the Price Cap Carrier option.⁴

After reviewing all of the comments of the various interests here, USTA remains firmly convinced that the Price Cap Carrier option it endorsed in its comments continues to offer the greatest public interest benefits in terms of simplification, cost reduction and conformance to market pressures. It will be able to keep pace with contemporary carrier depreciation experience. And, it can be put into place by the affected carriers almost immediately.

Although the primary thrust of the NPRM is on simplification, USTA and others recognize that adapting depreciation procedures to the changed - and changing - market environment will best promote long-term simplification, and also will operate as an independent basis for action here. There is ample evidence to substantiate the presence of radically-new technological and competitive pressures on all of the fully subject carriers. Depreciation methods that are still rooted in outdated industry experience will be increasingly difficult to sustain, and ultimately will harm the public interest. Of the options set out in the NPRM, the Price Cap Carrier option provides the best bridge from yesterday's experience to today's reality within the boundaries of the Communications Act.

⁴Ameritech at 5; Bell Atlantic at 6; BellSouth at 19; GTE at 4; NYNEX at 7; Pacific Bell and Nevada Bell at 7; SNET at 12; Southwestern Bell at 9; United-SE at 4; U S WEST at 6. See also AT&T.

As USTA explained, procedural safeguards, opportunities for Commission oversight, and an abundance of data will remain available with the Price Cap Carrier option to assure the public interest is served.⁵ Likewise, assuming that the ability exists for them to match depreciation to asset consumption, carriers will assume greater responsibility for their decisions, as some commenters anticipate.⁶ This greater responsibility, however, cannot be grounded in illusory primary depreciation responsibility - carriers must have the ability to depreciate in line with business judgment about market pressures before they can be forced to accept the prospect of deficiencies or the results of incorrect decisions. If regulation continues to control depreciation with a heavy hand, regulation also must continue to recognize and accommodate any negative financial effects.

III. NONE OF THE OBJECTIONS TO THE PRICE CAP CARRIER OPTION PRESENTS AN INSURMOUNTABLE OBSTACLE TO ITS EFFECTIVE IMPLEMENTATION.

A number of commenters raise objections to the Price Cap Carrier option on the basis of the Commission's description of this option in the NPRM. Most of these objections fall into a very small group of concerns. These concerns can be summarized as follows:

⁵USTA comments at 9-12 and 22-29. USTA also is filing with these reply comments a separate paper, Depreciation Safeguards Under GAAP, prepared by Ernst and Young, (E&Y Depreciation Safeguards paper) that discusses in detail the safeguards and constraints over depreciation that will continue to apply to the fully subject carriers and to constrain the potential for manipulation or abuse. The E&Y Depreciation Safeguards paper identifies additional safeguards present under GAAP that were not identified in USTA's comments.

⁶Virginia SCC Staff at 3; MCI at 2.

- (A) There will be no supporting data for the Commission to evaluate and from which to prescribe appropriate rates;
- (B) This option abdicates Commission authority and gives carriers unlimited discretion to set their own rates;
- (C) Carriers will have the incentive and ability to manipulate depreciation to control their earnings;
- (D) The cost reductions described by the Commission are illusory; and
- (E) Regulators will lose access to carrier records.

The overwhelming number of commenters who raised objections to the Price Cap Carrier option focused on the first one listed above. For many, it was the only objection raised to the Price Cap Carrier option. As USTA's comments explain, however, the perception that there will be no supporting data, while understandable in light of the NPRM's summary description, is not what the carriers expect or intend. (This issue is addressed in detail immediately below.) "Regulation by robot" is as inimical to the carriers as it is to regulators, because it conveys to the carriers a fear that depreciation regulation will remain a prisoner of inflexible methods rather than being responsive to markets and technology change. Realistic depreciation rates and opportunities for capital recovery by regulated carriers that parallel the opportunities available to their competitors are essential components of a comprehensive and forward looking telecommunications policy. USTA believes that the Price Cap Carrier option best harmonizes these policies with market forces.

USTA anticipated all of these concerns in its comments, and a review of USTA's comments shows why none of these concerns merits rejection of the Price Cap Carrier option USTA set out. The various objections of commenters are addressed one by one:

A. There will be supporting data from which the Commission can prescribe appropriate rates for fully subject exchange carriers.

A number of commenters raise as their primary objection to the Price Cap Carrier option their perception that fully subject carriers will have depreciation rates prescribed without any supporting data being made available to the Commission.⁷ (Many appear to raise this as their only objection to the Price Cap Carrier option.)⁸ It is understandable from the NPRM that some commenters might have this perception.⁹ These expectations are not shared by USTA. Indeed, USTA recognizes that the very suggestion of depreciation represcription without supporting data would pose problems under the Communications Act.¹⁰

⁷California CATV Association at ii; Idaho PUC at 5; Missouri PSC at 5; Nebraska PSC at 2; N.Y.DPS at 12; South Dakota PUC at 2; Texas PUC at 4; Utah DPU at 4; Washington UTC at 3; Consumers' Counsel at 21.

⁸South Dakota PUC at 2; Utah DPU at 4; Washington UTC at 3. See also Missouri PSC at 5.

⁹See NPRM at ¶ 41.

¹⁰See USTA comments at 9 (the implication that the Commission would be left without any data or any procedure to analyze the data is highly inaccurate and could prejudice full consideration of this option.)

USTA's comments plainly explained how the Commission could implement the Price Cap Carrier option.¹¹ The NPRM already anticipated the filing by fully subject carriers of current depreciation rates, proposed depreciation rates, and changes in depreciation rates that would be experienced under the proposed rates.¹² USTA's comments went further, explaining how this Commission should anticipate the filing under this option of "the major data elements used to calculate the depreciation rates - reserves, life and salvage estimates, current and proposed depreciation rates, and accrual changes, with a letter of explanation."¹³ Carriers would file on a 1-3 year basis, and continue to use GAAP and the inherently protective remaining life methodology.¹⁴ Both this Commission and the commission with authority in the state where the carrier operated would receive the material.

The Commission also would have available to it a significant amount of other data for analytic and comparative purposes. As USTA pointed out in its comments, the fully subject carriers file data on Form M and other mechanisms included in the ARMIS process that update depreciation data.¹⁵ Tariff and other filings include similar

¹¹USTA comments at 8-12.

¹²NPRM at ¶ 41.

¹³USTA comments at 10.

¹⁴Id. The E&Y Depreciation Safeguards paper at 5 and 11-15 explains how these factors align with other safeguards.

¹⁵Only two weeks ago, the Commission revised and updated Form M schedules and automated many of them within the ARMIS process, including expansion of Schedule B-5b to provide additional detail on plant retirements, and addition of a new Schedule to

information.¹⁶ The staff collect data from time to time pursuant to the Commission's authority under §220 and §4 of the Act. To USTA's knowledge, no carrier has failed to respond to a staff inquiry requesting depreciation-related information, even an informal one. Indeed, USTA has, from time to time, assisted the carriers and the Commission in compiling and conveying such data. Depreciation data would continue to be available to states and to interested parties (as it is today through normal document distribution avenues.)

Thus, to the extent that commenters believe the fully subject carriers' depreciation prescriptions would not flow from a foundation of adequate data, they are in error. Commenters who raise this as their only objection to the Price Cap Carrier option should not, then, be viewed as opponents of this option, if the Commission accepts the option as it is identified by USTA, with the supporting data outlined in USTA's comments.

collect aggregate data on plant investment and accumulated depreciation for each jurisdiction. Memorandum Opinion and Order, Revision of ARMIS USOA Report (FCC Report 43-02) for Tier 1 Telephone Companies and Annual Report Form M, File No. AAD 92-46, released March 29, 1993 at ¶¶ 6-7.

¹⁶On March 31, the Commission announced that OMB had approved new and updated Forms 492 and 492-A, used for revenue and earnings analysis and enforcement purposes. These also provide the Commission with an "early warning system." Public Notice, No. 32486, released March 31, 1993.

B. This option confirms the explicit authority given to the Commission to set interstate depreciation rates, and does not delegate unlimited discretion to fully subject carriers.

The comments of the Missouri, Colorado and Texas commissions suggest that the Price Cap Carrier option is defective because the Commission is abdicating its statutory authority and acceding to the carriers' self-defined depreciation rates, without exercising any affirmative regulatory oversight.¹⁷

As USTA explained in its comments, the primary value of the Price Cap Carrier option is to fully achieve the benefits of incentive regulation by harnessing for depreciation regulation the same market incentives and pressures that are at work in the price cap ratemaking area.¹⁸ The primary responsibility for capital recovery would shift more heavily to the carriers,¹⁹ but the Commission itself would be able to better merge its authority over depreciation policy with its existing price cap regulatory policies to maximize benefits.²⁰ The Commission's oversight authority would remain. Notice and comment would occur, the Commission would assess the record as compiled, and it "would then issue an order that prescribes the rates it considers most appropriate,

¹⁷Missouri PSC at 5; Texas PUC at 5; Colorado PUC at i. See also Nebraska PSC at 2 and N.Y.DPS at 12, each citing initial general concerns of Commissioner Duggan as expressed when the NPRM was released.

¹⁸USTA comments at 33-34.

¹⁹USTA comments at 13.

²⁰USTA comments at 9.

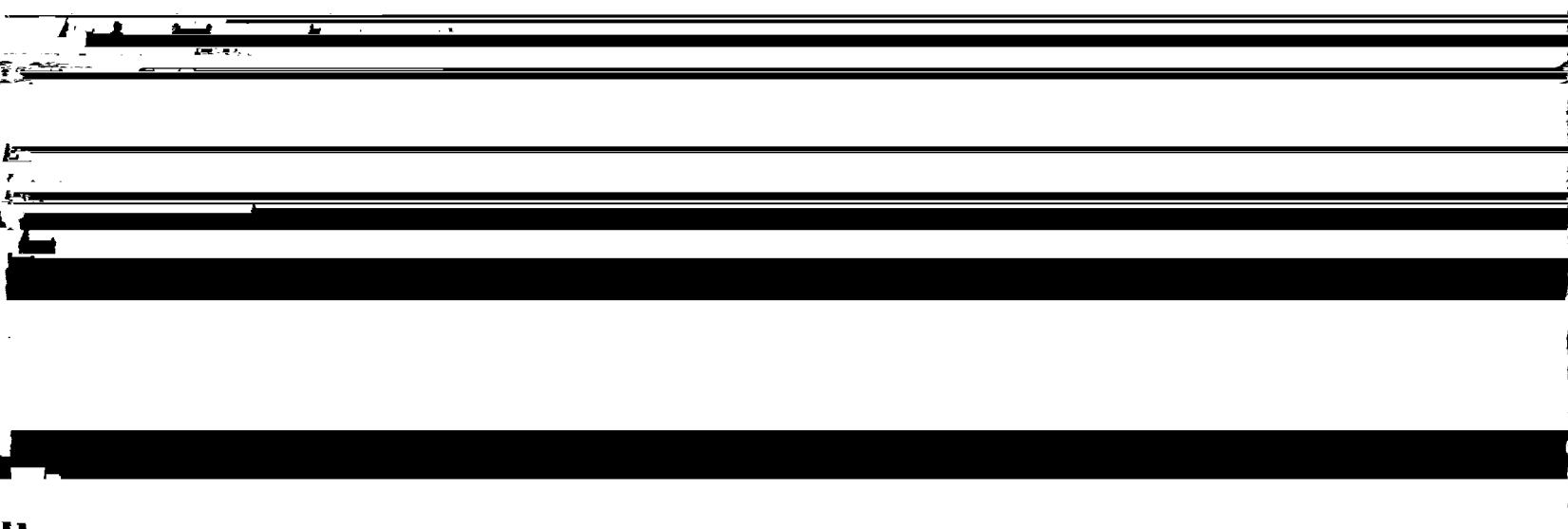
pursuant to § 220(b) of the Act."²¹ As USTA stated, "(T)he process would be anything but a "rubber stamp" of carrier requests."²²

C. The Commission can address all earnings-related depreciation issues raised in relation to the Price Cap Carrier option.

A small group of commenters opposed the Price Cap Carrier option on the basis that the price cap exchange carriers would utilize the Price Cap Carrier option to evade earnings sharing aspects of incentive regulation imposed by the Commission on price cap exchange carriers in 1990-91.²³ Their comments argue that a price cap carrier will

Commission's own numerous decisions over the past few years) make such earnings "manipulation" impossible to effectuate.²⁴ Nor does the price cap mechanism operate to permit such "manipulation" to occur. External factors increasingly add such volatility to earnings that the request for a specific set of depreciation rates could just as easily push a carrier into sharing later as keep it out of sharing. Taking into account both the limited earnings ramifications, and the various external constraints identified in USTA's comments,²⁵ it is unlikely that carriers will attempt to fine tune their earnings in the ways these few commenters claim.

The commenters who claim "manipulation" misunderstand the inherent protections for the interstate customer that are now in place in accounting and Commission requirements. There are also inherent timing constraints. The fully subject carriers under price caps would not have the option to fix their depreciation at the end of earnings periods without it being apparent to the Commission. Only at this time could any so-called "manipulation" occur. If the Commission has any lingering concern here, it could simply require that the carriers file depreciation rates at a point in the year sufficiently early so that its concern will be assuaged. Absent a crystal ball at the time of filing, the carriers would have little assurance of the exact level of their future earnings.



any additional concern, that concern can be addressed within the Price Cap Carrier option.

It will not be short term earnings that will motivate carriers' depreciation decisions in any event. As USTA explained in its comments, the carriers' depreciation decisions must take on long term significance in a competitive environment.²⁶ The carriers' primary concern will continue to be service-related. They must make investment and depreciation decisions that will assure customers will have the highest quality of service reasonably attainable given the various constraints facing the carrier. In a price cap environment, those concerns will be augmented by the need to position the company's most essential revenue producing asset - its network - as a stable, reliable and continually

believes there are many asset categories in which depreciation currently is understated, correction for such a condition is not "manipulation." It is simply a true-up to market experience. Once the appropriate level of depreciation is reached, depreciation expense will reach an equilibrium in which it can track the actual rate of asset consumption. To the extent that depreciation currently is understated (or was underassumed in developing the initial price cap), any earnings compilations now are likely to be overstated. If that arbitrarily high level of earnings should trigger sharing, the sharing itself would be objectively unwarranted, and might not have occurred but for the dichotomy between actual experience and regulation's estimate of that experience.²⁷

The price cap carriers are required to treat depreciation as an endogenous factor for price cap ratemaking purposes. Thus, the external impact of depreciation on price cap rates is presumptively nil. Finally, even if a carrier were to propose and receive depreciation rates that increase depreciation expense and ultimately lead to reductions in sharing, that result will still provide a net benefit to customers. The continuing benefits of increasingly accurate depreciation will avoid future reserve imbalances, and thus the risk of reserve deficiencies will be lessened. Further, under price cap regulation, it is unlikely there will be any dollar impact on the customer. Even if some impact were to occur, it would be far smaller than it would be under rate of return.

²⁷See E&Y Depreciation Safeguards paper at 13-15 (allocation of asset costs over their estimated useful lives must be systematic, rational and equitable; estimates must track periodic presentations of financial statements; constraints preclude material manipulation.)

D. The cost reductions of the Price Cap Carrier option are real, but the other benefits of that option also justify its adoption.

Some commenters argue that the cost reductions set out in the NPRM are overstated, and that cost reductions are illusory under any of the Commission's NPRM proposals.²⁸ A few commenters suggest that the relative costs of depreciation rate regulation are small in proportion to the impact.²⁹

As USTA's comments and those of many carriers set forth, the reduction in administrative costs of the Price Cap Carrier option and the various range options would be significant.³⁰ Reducing unnecessary costs of any size or magnitude is in the public interest.

Cost reduction alone, however, is not the issue. The Commission should focus here on other benefits, too. It has the opportunity to harmonize depreciation rate prescription procedures with its price cap rules and align them to accommodate the emergence of competition. USTA agrees with those commenters who accept that depreciation rates must be able to remain accurate in competitive markets.³¹ Regulated

²⁸MCI at 4 (skeptical); California at 2; Colorado PUC at 3-4 (states only that the cost savings evaluation is not set out); Washington UTC at 2.

²⁹N.Y.DPS at 5; Oregon PUC at 2.

³⁰See, e.g., Ameritech at 5; GTE at 6, Pacific and Nevada Bell at 2, 14.

³¹See Washington UTC at 2; See also NARUC at 6, 17; Idaho PUC at 6; Missouri PSC at 2.

entities' current rates should be able to be transitioned to that effect. The future will not be sympathetic to carriers that are not positioned to meet competition.

This NPRM invites development of a consistent incentive-based federal policy that is ready to deal with competitive and technological forces.³² Greater long term structural incentives for fully subject carriers to match depreciation with actual consumption of their plant in a dynamic market must be recognized as being in the public interest. In a time of growing demand for investment and innovation, the Commission can use the Price Cap Carrier option to harness competitive forces in the public interest. Over time, this will make the Commission's job easier, allowing it to focus on specific regulatory concerns, rather than attempting to define individual rates of asset consumption for all accounts of all fully subject carriers in all their markets. The Price Cap Carrier option will put the onus on carriers in the marketplace to identify those forces and deal with them directly.

E. Regulators will continue to have access to records.

Several state commission commenters expressed concern that carriers under the Price Cap Carrier option (and the other options) will no longer continue to maintain property records that the states believe to be necessary to deal with depreciation on the intrastate level.³³ They need not fear such a result. Fully subject carriers'

³²This is faithful to the fundamental goals of depreciation. E&Y Depreciation Safeguards paper at 15-19.

³³NARUC at 5 and 9; California at 2; Wisconsin PSC at 2.

recordkeeping is governed by Part 32 of the Commission's rules. Carriers afforded the use of any of the options assume that they will continue to comply with the USOA requirement that they maintain records that will identify their property.

The Price Cap Carrier option USTA favors would not affect the requirement of Part 32 that provides for continuing property records. There has been no suggestion made by USTA or by others that fundamental recordkeeping be eliminated with that option.

In estimating the cost savings that could be available under the Price Cap Carrier option, USTA made assumptions that each of the options proposed would be available for use with all accounts across all jurisdictions.³⁴ A number of states agree that there would be benefits in having depreciation procedures that are not inconsistent as between the jurisdictions, and they perceive that the cost savings would be greatest using similar assumptions.³⁵ The Price Cap Carrier option was seen as not hampering the states in their processes.³⁶

Unfortunately, in regulation one size does not fit all. Individual states have issues unique to them. Those intrastate issues should not control interstate depreciation, just as

³⁴USTA comments at 7, note 13.

³⁵Wisconsin PSC at 7. See also Nebraska PSC at 3.

³⁶Wisconsin PSC at 7.

the states don't want the outcome of this NPRM to control their depreciation decisions.³⁷ The Communications Act allocation of power over depreciation confirmed by Louisiana PSC works in both directions.³⁸

The Commission's rules should focus on interstate issues. Depreciation simplification under any of the NPRM options leaves as much room to accommodate individual state issues as the current process does. All commenters assume that the states will retain the same control over intrastate depreciation rates that they have now. A number of state commenters recognize that the Commission's cooperation and staff skill have been helpful to them, and a concern is that this should continue to be available to them.³⁹ There is no objection to this in the record here.⁴⁰

Finally, there is some fear among a few state commissions that the states will no longer have three-way meetings available to them. As USTA's comments stated, three-way meetings still could be held. Even today, however, not every represcription involves a three-way meeting.⁴¹ The carriers recognize there could be other value to

³⁷See Oklahoma CC PUD staff at 3 (recognizes the states won't be preempted; many have their own simplification programs.)

³⁸Louisiana PSC v. FCC, 476 U.S. 355 (1986).

³⁹N.J.BRC at 4; Virginia SCC staff at 1; Michigan PSC staff at 6; North Dakota PSC at 1; Oregon PUC at 1.

⁴⁰Only GSA raises this as an issue. GSA at 7.

⁴¹USTA comments at 10.

the achievement of progressive depreciation rate regulation in some cases. The three-way meeting may have value to a state with a limited staff and resources, in that it may help the carriers show a state staff how the impacts of technology have altered assumptions across the jurisdictions.

In the interstate arena, the exchange carriers do not anticipate elimination of the current option for a three-way meeting. And, in dealing with the interstate arena, no commenter has suggested that the adoption of the Price Cap Carrier option should result in any preemption of state power under the Act to control the level of intrastate depreciation or to determine what procedures would best result in market-based intrastate depreciation rates.

IV. IF PROPERLY IMPLEMENTED, EITHER RANGE OPTION WOULD BE AN